

### **REMARKS**

In response to the Office Action mailed May 29, 2008, Applicants respectfully request reconsideration. All of the issues raised in the Office Action have been carefully considered and are addressed herein.

Claims 1-5, 7, 9-20, 22, and 25 are pending in this application, claims 9-17, 19-20, and 22 being withdrawn from consideration. Claims 6, 24, and 26 are canceled without prejudice, and claim 1 is amended herein to include the limitations of claim 24, such that claim 1 is equivalent in scope to now-cancelled claim 24. Also, dependent claim 2 is amended in view of the amendment to claim 1. Claim 24 has been examined and addressed in the final Office action, and thus, entry of these amendments after final action is proper because no further searching is required.

The applicants respectfully request the entry of this amendment to place the claims in better condition for allowance or appeal.

### **Withdrawn Claims**

The Office action demands that the Applicants' withdrawn claims be canceled. This demand is improper. The Examiner has the right to withdraw non-elected claims from consideration; the Examiner does not have the right to require the non-elected claims to be canceled. MPEP 821.04 states:

"The propriety of a restriction requirement should be reconsidered when all the claims directed to the elected invention are in condition for allowance, and the nonelected invention(s) should be considered for rejoinder. Rejoinder involves withdrawal of a restriction requirement between an allowable elected invention and a nonelected invention and examination of the formerly nonelected invention on the merits. In order to be eligible for rejoinder, a claim to a nonelected invention must depend from or otherwise require all the limitations of an allowable claim."

That is, non-elected claims retain their "withdrawn" status so that if the claim upon which the withdrawn claim is allowed, the withdrawn claim can be rejoined and allowed. If the claims are canceled, the possibility of rejoinder is eliminated.

### Claim Rejections

The Office action rejects claims 1-7, 18, and 24-26 under 35 U.S.C. 102(b) over Kennedy et al. (USP 6,683,421). The applicants respectfully traverse this rejection.

"A rejection under U.S.C. 102(b) is proper only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim." **MPEP 2131**. "There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention." **BPAI Opinion No. 2005-2289, October 2005**.

Kennedy fails to teach an integrated lighting module with a passive thermal management system that includes only passive thermal transfer elements, as specifically claimed in claim 1 (formerly claim 24).

The Office action fails to identify where Kennedy teaches a passive thermal management system. To the contrary, Kennedy teaches a pump 48 that pumps liquid through either a heat sink 44 or a heat exchanger 56, with a cooling fan 45 (Kennedy, FIGs. 1C, 1D, and 1E; column 3, line 57 - column 4, line 39). One of skill in the art will clearly recognize that a pump driven cooling system and/or a cooling fan is not a passive thermal system.

Kennedy's system is designed for an industrial setting, wherein proper control of the light and heat is required during the manufacture of photo-cured elements. Kennedy's system requires active cooling, and is not suitable for general consumer applications, where passive cooling components, such as heat pipes, are preferred.

The Office action asserts that Kennedy discloses heat pipes integrated with a thermally conductive substrate with an evaporator end thermally coupled to the light emitting elements, as claimed in claims 2-5 and 7, at column 3, line 45 - column 4, line 34. The applicants respectfully disagree with this assertion. The terms "heat pipe" and "evaporator" do not appear anywhere within Kennedy's disclosure.

Because Kennedy fails to teach each of the elements of claim 1, the applicants respectfully maintain that the rejection of claims 1-7, 18, and 24-26 under 35 U.S.C. 102(b) over Kennedy should be withdrawn.

The Office action rejects claim 25 under 35 U.S.C. 103(a) over Kennedy and Hayashi et al. (USPA 2004/0051429, hereinafter Hayashi). The applicants respectfully traverse this rejection.

Claim 25 is dependent upon claim 1, and in this rejection, the Office action relies on Kennedy for teaching the elements of claim 1. As noted above, Kennedy does not teach the elements of claim 1. Accordingly, the applicants respectfully maintain that the rejection of claim 25 under 35 U.S.C. 103(a) over Kennedy and Hayashi should be withdrawn.

Applicants believe that it is unnecessary at this time to argue the allowability of each of the dependent claims individually, aside from the remarks provided above. However, Applicants do not necessarily concur with the interpretation of the dependent claims as set forth in the Office Action, nor do Applicants concur that the bases for the rejection of any of the dependent claims is proper. Therefore, Applicants reserve the right to specifically address the patentability of the dependent claims in the future if deemed necessary.

**CONCLUSION**

It is respectfully believed that all of the rejections, objections, or comments set forth in the Office Action have been addressed. However, the absence of a reply to a specific rejection, objection, or comment set forth in the Office Action does not signify agreement with or concession of that rejection, objection, or comment. In addition, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Furthermore, nothing in this paper should be construed as an intent to concede any issue with regard to any claim.

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicants' representative at the telephone number indicated below to discuss any outstanding issues relating to the allowability of the application.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, please charge any deficiency to Deposit Account No. 14/1270.

Dated: January 28, 2009

Respectfully submitted,

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